

### **INFORMATION DISCLOSURE STATEMENT CERTIFICATION**

Please see 37 CFR 1.97 and 1.98 to make the appropriate selection(s):

☒ That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(1).

**OR**

☐ That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(2).

Respectfully submitted,  
Goodwin|Procter LLP

Dated: October 21, 2009

By: 

Ginger Dreger, Reg. No. 33,055

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
Birgit Bossenmaier	)	
Application No.: 10/619,754	)	Group Art Unit: 1643
Filed: July 14, 2003	)	Examiner: Holleran, Anne
For: Methods for identifying tumors that are responsive	)	
to treatment with anti-ErbB2 antibodies	)	

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**PETITION TO CONSIDER INFORMATION DISCLOSURE STATEMENT  
UNDER 37 C.F.R. § 1.97(d)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313

Sir:

Applicant hereby Petition the Commissioner to consider the references cited in the attached Information Disclosure Statement. The Information Disclosure Statement is being submitted after receipt of a Final Official Action or Notice of Allowance, but before payment of the issue fee, and is therefore accompanied by this Petition to Consider in accordance with the provisions of 37 C.F.R. 1.97(d). Also attached hereto is a Certification as required by this paragraph.

Please charge the Petition fee of \$130.00 under 37 CFR 1.17(i) to Deposit Account No. 50-4634 (Docket No. 123851-181770).

The Commissioner is authorized to charge any additional fees which may be required, including petition fees and extension of time fees, or credit any overpayment to Deposit Account No. 50-4634 (Docket No. 123851-181770). A duplicate copy of this paper is enclosed.

Respectfully submitted,  
Goodwin|Procter LLP

Date: October 21, 2009

By:   
Ginger Dreger Reg. No. 33,055

Goodwin|Procter LLP  
135 Commonwealth Drive  
Menlo Park, CA 94025  
Customer No. 77845

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application	)	<u>PATENT APPLICATION</u>
	)	
Inventor(s): Bigt Bossenmaier, et al.	)	
	)	Art Unit: 1643
Application No: 10/619,754	)	
	)	Examiner: Holleran, Anne
Filed: July 14, 2003	)	
	)	
Title: Methods for identifying tumors that are responsive to treatment with anti-ErbB2 antibodies	)	

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.97

**MAIL STOP AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Listed below on an attached Form PTO-1449 is information known to applicant(s). A copy of each listed publication and U.S. and foreign patent, except for pending U.S. applications, is being submitted herewith, along with a concise explanation of information in a foreign language, if any, pursuant to 37 C.F.R. §1.97-1.98.

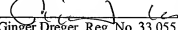
Applicants respectfully request that the listed information be considered by the Examiner and be made of record in the above-identified application. If form PTO-1449 is enclosed, the Examiner is requested to initial and return it in accordance with MPEP §609.

This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in §1.56.

- ☐ This statement qualifies under 37 C.F.R. §1.97, subsection (b) because (check all that apply):
- ☐ (1) It is being filed within 3 months of the application filing date and is other than a continued prosecution application under § 1.53(d)  
-- OR --
- ☐ (2) It is being filed within 3 months of entry of a national stage  
-- OR --
- ☐ (3) It is being filed before the mail date of the first Office Action on the merits  
-- OR --
- ☐ (4) It is being filed before the mailing of a first Office Action after the filing of a request for continued examination under § 1.114.
- ☐ 37 C.F.R. §1.97(c). If this statement is being filed after the latest of: (1) three months beyond the filing date of a national application; (2) three months beyond the date of entry of the national stage as set forth in §1.491 in an international application; or (3) the mailing date of a first Office action on the merits, but before the mailing date of the earlier of a final office action under §1.113 or a notice of allowance under §1.311, then:
- ☐ a certification as specified in §1.97(e) is provided below; or
- ☐ a fee of \$180.00 as set forth in §1.17(p) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.
- ☒ 37 C.F.R. §1.97(d). If this statement is being filed after the mailing date of the earlier of a final office action under §1.113 or a notice of allowance under §1.311, but before payment of the issue fee, then:
- A. a certification as specified in §1.97(e) is completed below; and
- B. a petition under 37 C.F.R. §1.97(d) requesting consideration of this statement is submitted herewith; and
- C. a fee of \$130.00 as set forth in §1.17(i)(1) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.
- ☒ **Fee Authorization.** The Commissioner is hereby authorized to charge the above-referenced fees of \$130.00 and charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 50-4634 (Docket No. GNE-0114 (123851-181770)).

Respectfully submitted,  
GOODWIN PROCTER LLP

Dated: October 21, 2009

By   
Ginger Dreger, Reg. No. 33,055

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